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Attorneys for Defendant
UNITED AIRLINES, INC.

UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF CALIFORNIA

Willie C. Register, Jr., an individual, Plaintiff, v. United Airlines, Inc., a Delaware corporation, Defendant.	Case No. 16-cv-2480-W-BGS ANSWER AND AFFIRMATIVE DEFENSES OF DEFENDANT UNITED AIRLINES, INC. TO PLAINTIFF'S COMPLAINT

Defendant United Airlines, Inc. (hereinafter "United"), by and through its attorneys of record, Condon & Forsyth LLP, hereby responds to the Complaint of Plaintiff Willie C. Register, Jr. (hereinafter "plaintiff") as follows:

AS TO THE INTRODUCTION AND SUMMARY OF ALLEGATIONS

1. United denies the allegations in paragraph 1 of plaintiff's complaint, except United admits that on October 22, 2015, plaintiff was a scheduled passenger on United Airlines Flight No. 1150.

AS TO THE PARTIES

2. United is without knowledge or information sufficient to form a belief

as to the truth of the allegations in paragraph 2 of plaintiff's complaint and, on this basis, denies said allegations.

3. United denies the allegations in paragraph 3 of plaintiff' complaint, except United admits that it is a corporation organized and existing under the laws of the State of Delaware, with its principal place of business located in Chicago, Illinois.

AS TO JURISDICTION AND VENUE

4. The allegations in paragraph 4 of plaintiff's complaint consist of legal conclusions to which no response is required. To the extent a response is deemed required, United denies the allegations in paragraph 4 of plaintiff's complaint.

5. The allegations in paragraph 5 of plaintiff's complaint consist of legal conclusions to which no response is required. To the extent a response is deemed required, United denies the allegations in paragraph 5 of plaintiff's complaint.

6. The allegations in paragraphs 6 of plaintiff's complaint consist of legal conclusions to which no response is required. To the extent a response is deemed required, United denies the allegations in paragraph 6 of plaintiff's complaint.

AS TO FACTS

7. United is without knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 7 of plaintiff's complaint and, on this basis, denies said allegations, except United admits that on October 22, 2015, plaintiff was a scheduled passenger on United Airlines Flight No. 1150.

8. United denies the allegations in paragraph 8 of plaintiff's complaint.

9. United denies the allegations in paragraph 9 of plaintiff's complaint.

10. United denies the allegations in paragraph 10 of plaintiff's complaint.

11. United denies the allegations in paragraph 11 of plaintiff's complaint.

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12. United denies the allegations in paragraph 12 of plaintiff's complaint.

13. United denies the allegations in paragraph 13 of plaintiff's complaint.

14. United denies the allegations in paragraph 14 of plaintiff's complaint.

15. United denies the allegations in paragraph 15 of plaintiff's complaint.

16. United denies the allegations in paragraph 16 of plaintiff's complaint.

17. United denies the allegations in paragraph 17 of plaintiff's complaint.

18. United denies the allegations in paragraph 18 of plaintiff's complaint.

19. United denies the allegations in paragraph 19 of plaintiff's complaint.

20. United denies the allegations in paragraph 20 of plaintiff's complaint.

21. United denies the allegations in paragraph 21 of plaintiff's complaint.

22. United denies the allegations in paragraph 22 of plaintiff's complaint.

AS TO THE FIRST CAUSE OF ACTION
(Civil Rights Discrimination – Violation of 42 U.S.C. § 1981)

23. Answering the allegations in paragraph 23 of plaintiff's complaint, United repeats, reiterates and re-alleges each and every answer contained in paragraphs 1 through 22, inclusive, of this answer with the same force and effect as if set forth herein in full.

24. The allegations in paragraph 24 of plaintiff's complaint consist of legal conclusions to which no response is required. To the extent a response is deemed required, United denies the allegations in paragraph 24 of plaintiff's complaint.

25. The allegations in paragraph 25 of plaintiff's complaint consist of legal conclusions to which no response is required. To the extent a response is deemed required, United denies the allegations in paragraph 25 of plaintiff's complaint.

26. United denies the allegations in paragraph 26 of plaintiff's complaint.

27. United denies the allegations in paragraph 27 of plaintiff's complaint.

28. United denies the allegations in paragraph 28 of plaintiff's complaint.

AS TO THE SECOND CAUSE OF ACTION

(Unruh Civil Rights Acts – Violation of Cal. Civ. Code § 51)

29. Answering the allegations in paragraph 29 of plaintiff's complaint, United repeats, reiterates and re-alleges each and every answer contained in paragraphs 1 through 28, inclusive, of this answer with the same force and effect as if set forth herein in full.

30. The allegations in paragraph 30 of plaintiff's complaint consist of legal conclusions to which no response is required. To the extent a response is deemed required, United denies the allegations in paragraph 30 of plaintiff's complaint.

31. The allegations in paragraph 31 of plaintiff's complaint consist of legal conclusions to which no response is required. To the extent a response is deemed required, United denies the allegations in paragraph 31 of plaintiff's complaint.

32. The allegations in paragraph 32 of plaintiff's complaint consist of legal conclusions to which no response is required. To the extent a response is deemed required, United denies the allegations in paragraph 32 of plaintiff's complaint.

33. United denies the allegations in paragraph 33 of plaintiff's complaint.

34. United denies the allegations in paragraph 34 of plaintiff's complaint.

AS TO THE THIRD CAUSE OF ACTION

(Title VI of the Civil Right Act of 1964)

35. Answering the allegations in paragraph 35 of plaintiff's complaint, United repeats, reiterates and re-alleges each and every answer contained in paragraphs 1 through 34, inclusive, of this answer with the same force and effect as

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if set forth herein in full.

36. The allegations in paragraph 36 of plaintiff's complaint consist of legal conclusions to which no response is required. To the extent a response is deemed required, United denies the allegations in paragraph 36 of plaintiff's complaint.

37. The allegations in paragraph 37 of plaintiff's complaint consist of legal conclusions to which no response is required. To the extent a response is deemed required, United denies the allegations in paragraph 37 of plaintiff's complaint.

38. The allegations in paragraph 38 of plaintiff's complaint consist of legal conclusions to which no response is required. To the extent a response is deemed required, United denies the allegations in paragraph 38 of plaintiff's complaint.

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AS TO THE FOURTH CAUSE OF ACTION

(False Imprisonment)

39. Answering the allegations in paragraph 39 of plaintiff's complaint, United repeats, reiterates and re-alleges each and every answer contained in paragraphs 1 through 38, inclusive, of this answer with the same force and effect as if set forth herein in full.

40. The allegations in paragraph 40 of plaintiff's complaint consist of legal conclusions to which no response is required. To the extent a response is deemed required, United denies the allegations in paragraph 40 of plaintiff's complaint.

41. United denies the allegations in paragraph 41 of plaintiff's complaint.

42. United denies the allegations in paragraph 42 of plaintiff's complaint.

43. United denies the allegations in paragraph 43 of plaintiff's complaint.

44. United denies the allegations in paragraph 44 of plaintiff's complaint.

45. United denies the allegations in paragraph 45 of plaintiff's complaint.

46. United denies the allegations in paragraph 46 of plaintiff's complaint.

AS TO THE FIFTH CAUSE OF ACTION

(Intentional Infliction of Emotional Distress)

47. Answering the allegations in paragraph 47 of plaintiff's complaint, United repeats, reiterates and re-alleges each and every answer contained in paragraphs 1 through 46, inclusive, of this answer with the same force and effect as if set forth herein in full.

48. The allegations in paragraph 48 of plaintiff's complaint consist of legal conclusions to which no response is required. To the extent a response is deemed required, United denies the allegations in paragraph 48 of plaintiff's complaint.

49. United denies the allegations in paragraph 49 of plaintiff's complaint.

50. United denies the allegations in paragraph 50 of plaintiff's complaint.

51. United denies the allegations in paragraph 51 of plaintiff's complaint.

52. United denies the allegations in paragraph 52 of plaintiff's complaint.

53. United denies the allegations in paragraph 53 of plaintiff's complaint.

AS TO THE SIXTH CAUSE OF ACTION

(Negligence)

54. Answering the allegations in paragraph 54 of plaintiff's complaint, United repeats, reiterates and re-alleges each and every answer contained in paragraphs 1 through 53, inclusive, of this answer with the same force and effect as if set forth herein in full.

55. The allegations in paragraph 55 of plaintiff's complaint consist of legal conclusions to which no response is required. To the extent a response is deemed required, United denies the allegations in paragraph 55 of plaintiff's

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complaint.

56. United denies the allegations in paragraph 56 of plaintiff's complaint.

57. United denies the allegations in paragraph 57 of plaintiff's complaint.

58. United denies the allegations in paragraph 58 of plaintiff's complaint.

59. United denies the allegations in paragraph 59 of plaintiff's complaint.

60. United denies the allegations in paragraph 60 of plaintiff's complaint.

AS TO THE SEVENTH CAUSE OF ACTION

(Negligent Infliction of Emotional Distress)

61. Answering the allegations in paragraph 61 of plaintiff's complaint, United repeats, reiterates and re-alleges each and every answer contained in paragraphs 1 through 60, inclusive, of this answer with the same force and effect as if set forth herein in full.

62. United denies the allegations in paragraph 62 of plaintiff's complaint.

63. United denies the allegations in paragraph 63 of plaintiff's complaint.

64. United denies the allegations in paragraph 64 of plaintiff's complaint.

65. United denies the allegations in paragraph 65 of plaintiff's complaint.

AS TO THE EIGHTH CAUSE OF ACTION

(Breach of Contract)

66. Answering the allegations in paragraph 66 of plaintiff's complaint, United repeats, reiterates and re-alleges each and every answer contained in paragraphs 1 through 65, inclusive, of this answer with the same force and effect as if set forth herein in full.

67. The allegations in paragraph 67 of plaintiff's complaint consist of legal conclusions to which no response is required, except United admits that on October 22, 2015, plaintiff was a scheduled passenger on United Airlines Flight No. 1150.

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68. United denies the allegations in paragraph 68 of plaintiff's complaint.

69. United denies the allegations in paragraph 69 of plaintiff's complaint.

70. United denies the allegations in paragraph 70 of plaintiff's complaint.

AS TO THE PRAYER FOR RELIEF

71. United denies plaintiff's prayer for relief.

AFFIRMATIVE DEFENSES

FIRST AFFIRMATIVE DEFENSE

TO EACH AND EVERY CAUSE OF ACTION

72. Plaintiff's complaint fails to state a claim against United upon which relief can be granted.

SECOND AFFIRMATIVE DEFENSE

TO EACH AND EVERY CAUSE OF ACTION

73. Plaintiff's damages, if any, were caused in whole or in part by the acts or omissions of plaintiff, and accordingly, plaintiff's damages, if any, must be barred or diminished in direct proportion to the fault of plaintiff.

THIRD AFFIRMATIVE DEFENSE

TO EACH AND EVERY CAUSE OF ACTION

74. Plaintiff's complaint is barred on the grounds that plaintiff engaged in conduct that constitutes a waiver of any claim that plaintiff may have had against United.

FOURTH AFFIRMATIVE DEFENSE

TO EACH AND EVERY CAUSE OF ACTION

75. Plaintiff's complaint is barred on the grounds that plaintiff engaged in

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conduct that estops plaintiff from bringing this action.

FIFTH AFFIRMATIVE DEFENSE

TO EACH AND EVERY CAUSE OF ACTION

76. Plaintiff knew about the risk, and voluntarily undertook the risk that led to the damages he complains of in this case.

SIXTH AFFIRMATIVE DEFENSE

TO EACH AND EVERY CAUSE OF ACTION

77. United's liability, if any, with respect to plaintiff's alleged damages is further limited or excluded in accordance with its conditions of carriage, conditions of contract and tariffs.

SEVENTH AFFIRMATIVE DEFENSE

TO EACH AND EVERY CAUSE OF ACTION

78. Plaintiff's alleged damages are limited, excluded and/or preempted by federal law, including the Federal Aviation Act of 1958, as amended (Pub. L. No. 5-726, 72 Stat. 731, formerly codified at 49 U.S.C. § 1301 *et seq*., now recodified and incorporated into 49 U.S.C. § 40101 *et seq.*), and the provisions of the corresponding regulations promulgated by the Federal Aviation Administration.

EIGHTH AFFIRMATIVE DEFENSE

TO EACH AND EVERY CAUSE OF ACTION

79. Plaintiff's alleged damages are limited, excluded and/or preempted by federal law, including the Airline Deregulation Act of 1978, Pub. L. No. 95-504, 92 Stat. 1705 (codified as amended at 49 U.S.C. §§ 40101-44310 (1994)). *See Rowe v. New Hampshire Motor Transport Association*, 552 U.S. 364, 128 S. Ct. 989, 169 L. Ed. 3d 933 (2008); *Air Transport Association of America v. Cuomo*,

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520 F.3d 218 (2d Cir. 2008).

NINTH AFFIRMATIVE DEFENSE

TO EACH AND EVERY CAUSE OF ACTION

80. Plaintiff's complaint and each and every cause of action alleged in plaintiff's complaint are barred, in whole or in part, because United's conduct was in conformity with and was pursuant to statutes, governmental regulations and industry standards based upon the knowledge existing at the time of such conduct.

TENTH AFFIRMATIVE DEFENSE

TO EACH AND EVERY CAUSE OF ACTION

81. The incident alleged in plaintiff's complaint, and the damages plaintiff alleges were sustained as a result of the incident, were caused by intervening and superseding causes and were not caused by United.

ELEVENTH AFFIRMATIVE DEFENSE

TO EACH AND EVERY CAUSE OF ACTION

82. Plaintiff's complaint is barred by plaintiff's failure to take reasonable steps to mitigate his damages, if any.

TWELFTH AFFIRMATIVE DEFENSE

TO EACH AND EVERY CAUSE OF ACTION

83. Any injuries, damages or loss sustained by plaintiff, if such occurred, were proximately caused and contributed to by his own negligence in that he did not exercise reasonable and ordinary care on his own behalf and acted recklessly or carelessly at the times and places set forth in plaintiff's complaint. Accordingly, plaintiff's recovery, if any, should be reduced by the amount of negligence attributable to the conduct of plaintiff.

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WHEREFORE, defendant United Airlines, Inc. respectfully requests that plaintiff take nothing by this action against United Airlines, Inc., that the action against United Airlines, Inc. be dismissed with prejudice and that the Court grant to United Airlines, Inc. costs and other relief as it deems just and proper.

Dated: October 25, 2016

CONDON & FORSYTH LLP

By: /s/ Richard A. Lazenby
RICHARD A. LAZENBY
MICHAEL CUTLER
Attorneys for Defendant
UNITED AIRLINES. INC.